

Cuba Working Group

A Review of U.S. Policy Toward Cuba

U.S. House of Representatives

Washington, DC

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"I support improving the relations between Washington and Havana because...this can help us in our fight." - Vladimiro Roca, May 13th, 2002, eight days after being released from a Cuban prison where he spent 5 years for publishing a pamphlet urging the Cuban government to permit civil freedoms.

As the Administration re-examines U.S. policy toward Cuba, we respectfully invite President Bush and Secretary of State Powell to consider a series of proposed policies that will increase American influence in Cuba and serve a variety of concrete American national interests.

We are a bipartisan group of Members of Congress with diverse backgrounds and political philosophies. We are unanimous in our criticism of the Cuban government's abysmal human rights record, its refusal to allow free elections or the creation of opposition political parties, and its failure to respect freedom of the press and rule of law. It is our desire to see Cubans enjoy greater political and economic freedom.

In our efforts, we heartily embrace the message of Pope John Paul II, who began his visit to Cuba, in 1998 by urging:

"May Cuba, with all its magnificent potential, open itself to the world, and the world open itself up to Cuba, so that this people, which is working to make progress and which longs for concord and peace, may look to the future with hope."

American policy toward Cuba lacks support among the American public, the Congress, the international community, and most importantly, inside Cuba, among dissidents, clergy, and average Cuban citizens. Moreover, the U.S. policy objective of a peaceful transition to a stable, democratic form of government and respect for human rights in Cuba has gone unmet. After four decades, the U.S. embargo has failed to produce meaningful political and economic reform in Cuba.

U.S. policy is also at odds with the values and long-term strategies that the President and Secretary of State passionately advocate when they promote engagement around the world. Indeed, our nation's engagement of communist China and North Korea – countries that have significant human rights problems and that pose serious threats to American security – undermines support for our Cuba policy by making it appear inconsistent and unprincipled.

Cuba should not be an exception to our nation's engagement policy. Because Cuba is a neighbor and our nations share deep historical ties and current interests, Cuba should be at the center of our engagement policy, even as we press our human rights agenda at every opportunity.

Current U.S. policy seeks to assist the Cuban people and to promote a “rapid and peaceful” transition to democracy, yet many of its elements work in the opposite direction.

The embargo and other instruments intended to promote Cuba's economic and political isolation have indeed cut Cuba off from the benefits of trade with the United States, but Cuba is by no means isolated – Havana maintains commercial and diplomatic relations with scores of countries, including America's closest allies. Where American policy has succeeded, in isolating the Cuban and American people from each other, it has severely limited American influence at a critical moment in Cuban history.

Bereft of Soviet bloc aid and trade for a decade, Cuba is experimenting with elements of markets and capitalism, such as small enterprise, free-market sales of farm produce, foreign investment, and state enterprise reform, to generate jobs and growth.

Cuba's next generation will have to decide whether to expand these reforms, and will have to face a range of other economic, political, and diplomatic choices with important consequences for Cubans and Americans alike. Rather than keep the Cuban people at arm's length under the pretense of being “tough” on Fidel Castro, now is the time for America to engage to the maximum at all levels of Cuban society.

There are two main arguments in opposition to engagement with Cuba. We respectfully offer a differing view.

First, it is argued that engagement with Cuba is not warranted because, unlike China, Cuba has not reformed its economy. This ignores a series of significant reforms that have, despite their limited scope, given hundreds of thousands of Cubans opportunities to work in small enterprise or other market-based settings, increasing their earnings and improving their families' livelihoods. While our decision to engage China in 1972 was based on a number of complex factors, it is important to note that this occurred well before that country embarked on its economic reform program.

Second, it is argued that engagement would “cast a lifeline” to the Cuban government. Yet Cuba’s government, in power 43 years, is by no means on the brink of collapse – not even its strongest political opponents in Cuba argue that this is the case, in spite of its economic difficulties. Nor was the Cuban government’s political stability threatened by the economic catastrophe of 1992-1994. By basing policy on a flawed assessment of the political situation inside Cuba, the United States has closed off avenues of engagement that would benefit the Cuban people and serve American interests.

In a spirit of bipartisanship and with every interest in joining the Administration in a dialogue, we offer the following recommendations to improve American policy toward Cuba. Where legislative remedies are possible, the Cuba Working Group will seek out appropriate vehicles for such action. Where policy requires action by the Executive branch, the Cuba Working Group advises that such action be taken and will support the President’s efforts to undertake such action.

I. Repeal the travel ban

Freedom to travel is a basic right of Americans. As Americans exercise that right they expose people abroad to our ideas, values, and culture, constituting a major source of American influence.

The free movement of people across borders was enshrined in the Helsinki agreements that were the cornerstone of President Ford’s policy toward Eastern Europe.

The Cuba travel ban is an unwarranted intrusion on the rights of American citizens; it criminalizes normal and constructive activity by American citizens, and it closes off a powerful source of American influence in Cuba.

The current system, under which the Treasury Department licenses limited categories of travel, is a wasteful bureaucratic exercise that acts as a deterrent even for Americans such as educators, humanitarian donors, and religious groups, whose activities could qualify for a license. Contact between Americans and Cubans should be promoted by allowing full freedom of travel for Americans, not through a federal licensing process that requires citizens to ask permission of their government to visit a neighboring country.

Repeal of the travel ban will:

- Remove penalties against American citizens for normal travel to Cuba;
- Increase the flow of ideas and American influence;
- Remove barriers to increased educational, professional, medical, and other contacts with Cubans;
- Generate revenues that will expand Cuba's small private sector (especially private restaurants, taxis, artisans, home rentals);

- Boost U.S. farm exports by creating an increased demand for U.S. produced goods .
- End the draconian restriction that limits Cuban-Americans to one family visit per year in cases of humanitarian need; and
- Free the full resources of the Treasury Department's Office of Foreign Assets Control for its important mission of finding and disrupting the global terrorist financing network.

II. Allow normal, unsubsidized exports of agricultural and medical products

U.S. law currently permits the sale of food and medicines to Cuba. However, cumbersome U.S. administrative procedures and restrictions complicate and impede such trade, which could be of significant benefit to the American economy. Far from focusing attention on Cuba's failed domestic policies, U.S. restrictions send the signal that America wants to use economic deprivation as a tool for political change. We recommend:

- Permitting the sale of medicines, medical products, and medical devices, consistent with Congressional intent upon passage of the Trade Sanctions Reform and Export Enhancement Act;
- Allowing private financing of agricultural and medical exports, so that private entities such as banks and corporations can decide according to their own criteria whether to assume the risk of financing these sales;
- Repealing the provision of the Cuban Democracy Act that bans any ship that visits Cuba from calling on an American port for 180 days; and
- Ending the requirement that donors and vendors of medical products monitor their use in Cuba, while leaving intact normal U.S. export controls related to national security.

III. End restrictions on remittances

Cuban-Americans are limited in the amount of money they can send to support their families in Cuba. This limit, \$100 per month per household, is an unwarranted government intrusion on private acts of support and charity between family members. Remittances make a crucial difference in the well being of many thousands of Cuban families, and they enable many to acquire the modest resources with which to start small enterprises. Remittances free Cuban families from dependence on the government and fuel the continued growth of a dollar economy, independent of the state. We recommend full repeal of the limit on remittances.

IV. Sunset Helms-Burton in March 2003

The Libertad Act of 1996, also known as “Helms-Burton,” was enacted on the premise that by tightening the embargo, it would disrupt the Cuban economy and topple the Cuban government. Among the law’s provisions are:

- Severe limitations on the President's foreign policy prerogatives. Helms-Burton codified the embargo, which had previously been an executive order, into law. The President lost the ability to modify the embargo in calibrated ways in response to incremental reforms that could take place in Cuba.
- Mechanisms to settle claims on expropriated property that, if allowed to go into effect, would clog U.S. courts with lawsuits involving properties that the Cuban government expropriated from Cuban citizens, not Americans.
- A distorted definition of democracy and a failure to acknowledge the possibility of anything other than the total and instantaneous transformation of the Cuban state. Eight specific conditions are established before any transitional government can be recognized by the United States. And even if the Cuban people open their political system and hold a multiparty election with international observers, that government will not be recognized if it includes Fidel or Raul Castro.

We support passage of legislation to sunset Helms-Burton, in March of 2003, seven years after enactment, to allow a debate on the merits of reauthorization provisions of this law.

V. Repeal Section 211

Section 211 of the Fiscal 1999 Omnibus Appropriations Act (P.L. 105-277) prevents the United States from accepting payment for trademark licenses that were used in connection with a business or assets in Cuba that were confiscated unless the original owner of the trademark has consented. The provision prohibits U.S. courts from recognizing such trademarks without the consent of the original owner.

Section 211 constituted an improper intervention in a private trademark matter in favor of a foreign interest, the Bermuda-based Bacardi Corporation. It breaches U.S. obligations to honor Cuban trademarks under the Inter-American Convention on Trademarks and was judged by the WTO to be in violation of U.S. obligations to protect intellectual property under the TRIPS Agreement. As a result, it frees Cuba of its legal obligation to honor the more than 5,000 U.S.-owned trademarks registered in Cuba. Section 211 places American product trademarks at risk, violates our international obligations, and undermines U.S. credibility in defending intellectual property rights. The law places U.S. owned intellectual property in jeopardy in Cuba, and creates a risk of retaliation by the E.U. Section 211 has potentially costly consequences for U.S. economic and commercial interests with no meaningful benefit. We will seek the repeal of Section 211 and will oppose any amendment to Section 211 that extends its treaty-breaching provisions to other countries besides Cuba.

VI. TV/Radio Marti

The U.S. government has spent over \$400 million in taxpayer money on radio and television broadcasts directed at Cuban citizens. These broadcasts are meant to provide news and information to the Cuban people that they otherwise could not acquire through the controlled media of the Cuban state. In principle, this is a worthy effort but in practice its record has been mixed. Radio Marti's audience has declined to five percent of the total population, according to the latest survey by the U.S. government's Broadcasting Board of Governors, and serious questions exist about the quality of its broadcasts and the administration of the station.

TV Marti goes on the air at 3:30 a.m. and signs off at 8:00 a.m. every day. It operates when nobody watches because international broadcast rules require that the U.S. not interfere with Cuban broadcast transmissions. To ensure that not even Cuban insomniacs tune in, the Cuban government jams TV Marti. Consequently, TV Marti reaches no audience in Cuba and is utterly without purpose.

We recommend:

- Termination of TV Marti, which will save about \$10 million annually, until technology is developed and implemented to overcome the Cuban government's jamming.
- Comprehensive efforts to improve Radio Marti through financial audits, rigorous independent assessments of audience reaction and program quality, and an examination of the impact of moving Radio Marti from Washington to Miami.

VII. Scholarships

In place of the failed communication effort of TV Marti, the United States should promote educational programs with a proven track record that will achieve real communication between Americans and Cubans. We recommend that the funds saved from the termination of TV Marti should be used to support educational exchange programs with a proven track record, such as Fulbright scholarships, that will promote real communication among thousands of Americans and Cubans. Much like our exchange programs with Vietnam, these programs must be designed to ensure that the Cuban government has no role in selecting the participants.

VIII. Expand security cooperation

Cuba and the United States share some common hemispheric security and environmental protection interests. Where once Cuba may have posed a military challenge to the United States, we note that the Cold War is over. Today the most serious possible security threat from Cuba is that of an uncontrolled migration in the Florida straits that could result from

economic disaster or a political crisis on the island. Cuba's current military capabilities were described as "residual" and "defensive" by the Pentagon in 1998 in a Defense Intelligence Agency report that - contrary to recent statements of Undersecretary of State John Bolton - represented the comprehensive assessment of the entire U.S. intelligence community.

Regarding Mr. Bolton's charge that Cuba may be involved in the production of biological weapons, we note that he presented no evidence to the American people or Congress. In fact, the Administration omitted Cuba from a list of potential biological weapons producers just last November. Contradicting Mr. Bolton's statement that Cuba has "at least a limited offensive biological warfare research and development effort," Secretary of State Powell said that Cuba is not conducting such research, but that it has the ability to do so. "We do believe that Cuba has a biological offensive research capability," Secretary Powell said. "We didn't say it actually had such weapons but it has the capacity and capability to conduct such research and this is not a new statement."

Despite such concerns, Cuba and the United States already cooperate in a limited fashion in controlling migration and combating drug trafficking. The United States has a compelling interest in building on that cooperation to achieve results in other areas of mutual interest.

Cuba has expressed a desire to negotiate a broad security agenda with the United States. We urge the Administration to enter such a discussion to determine whether additional agreements can be reached to serve U.S. interests. The discussion should include matters of international crime, drug smuggling, and terrorism; in particular we believe it would be constructive to move beyond the limited but productive case-by-case cooperation in counternarcotics. We also urge the Administration to begin discussions on environmental protection, including Coast Guard contingency planning for environmental disasters. This is particularly important as Cuba begins oil exploration off its northwest coast.

IX. Certified Property Claims

Progress in economic and political relations eventually will require the settlement of claims for expropriations of \$1.2 billion in U.S. property by the Cuban government in 1959 and 1960. The forty-year old U.S. trade embargo was initiated because of these expropriations. America's major allies and trading partners have reached property claims settlements with Cuba, just as America has done with China, Vietnam, and Eastern European countries. We do not recommend here the kind of claims settlement that would be appropriate with Cuba. However, we strongly urge the Administration to devote serious attention and creative effort to the issue in order to obtain the compensation American claimants deserve.